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Robert E. Corbin

February 5, 1990

Duane L. Shroufe, Director  
Arizona Game and Fish Department  
2222 W. Greenway Road  
Phoenix, Arizona 85023

Re: I90-015 (R89-156)

Dear Mr. Shroufe:

You have asked whether the Arizona Game and Fish Department (Department) is authorized to have separate revolving funds under A.R.S. §§ 35-193 and 17-261.01, or whether the Department is limited to only one revolving fund under A.R.S. § 17-261.01. We conclude that the Department is permitted to have two separate revolving funds, one under A.R.S. § 35-193 and one under A.R.S. § 17-261.01.

A.R.S. § 35-193 provides, in pertinent part:

A. The supervisory official of a budget unit may apply to the Department of Administration to provide a revolving fund in an amount which will allow the budget unit to pay operating expense items under procedures prescribed by the Department of Administration.

(Emphasis added.) Revolving funds established pursuant to this provision generally may not exceed an amount of more than fifty thousand dollars. A.R.S. 35-193(C).

A.R.S. § 17-261.01 establishes a permanent Game and Fish revolving fund and provides, in pertinent part:

A. Notwithstanding the provisions of § 35-193, there is established a permanent game and fish revolving fund in an amount not to exceed thirty thousand dollars for use in making cash outlays for postage, C.O.D. packages, travel or other minor disbursements which are proper as ultimate claims for payment from the game and fish fund. The director of the Department of Administration shall prescribe rules and regulations for expenditures from this fund and reimbursement to the fund.

(Emphasis added.)

In construing the above statutes, we must make every attempt to give effect to the intention of the Legislature. Martin v. Martin, 156 Ariz. 452, 457, 752 P.2d 1038, 1043 (1988). In determining the intention of the Legislature we look first to the ordinary meaning of the words expressed in the statute, and then to the subject matter, effects and consequences and spirit of the act as a whole. Kriz v. Buckeye Petroleum Company, Inc., 145 Ariz. 374, 377, 701 P. 2d 1182, 1185 (1985). Words of a statute will be given their common and ordinary meaning unless the context of the statute requires otherwise. State Compensation Fund v. Nelson, 153 Ariz. 450, 453, 737 P.2d 1088, 1091 (1987).

The authorized uses for the Game and Fish revolving funds are specifically stated in A.R.S. § 17-261.01(A), viz. cash outlays for postage, C.O.D. packages, travel or other appropriate minor disbursements. The limited amount (\$30,000) and uses of the Game and Fish revolving fund, while being permanently available to the Department, do not permit use of the fund for all operating expenses of the Department. On the other hand, section 35-193 permits the Department, as a state agency, to apply for an amount "which will allow the budget unit to pay operating expense items" up to fifty thousand dollars. Reading the language of section 17-261.01, we find no legislative intent to prohibit a separate revolving fund under section 35-193.

In construing the phrase "Notwithstanding the provisions of § 35-193" as used in section 17-261.01(A), we note that the word "notwithstanding" means "without prevention or obstruction from or by; in spite of." Webster's Third New International Dictionary 1545 (4th ed. 1976). Used in its

I90-015

Mr. Duane L. Shroufe  
Page 3

ordinary sense, the phrase indicates that the provisions of section 35-193 do not prohibit establishment of a permanent revolving fund for the Game and Fish Department. Because the establishment of a fund under section 35-193 does not prevent or obstruct the establishment of the permanent fund under section 17-261.01, we conclude that the Legislature did not intend to limit the Department to one fund or the other.

Consequently, we conclude that the Department is permitted \$30,000 in revolving funds under A.R.S. § 17-261.01, and up to \$50,000.00 in revolving funds under A.R.S. § 35-193, to the extent those funds are justified and approved by the Department of Administration.

Sincerely,



BOB CORBIN  
Attorney General

BC:JRA:lpf